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BRIEFING PAMPHLET
ON
UNITED STATES EXPORT CONTROLS

THIS PAMPHLET HAS BEEN PREPARED FOR THE EDAC FOR
USE BY FOREIGN EXPORT CONTROL MISSIONS VISITING
THE UNITED STATES UNDER THE TERMS OF TITLE III
OF THE EATON ACT. IT IS INTENDED TO PROVIDE A
BRIEF SUMMARY OF THE EXPORT CONTROL SYSTEM IN
THE UNITED STATES.

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AN INTRODUCTION TO UNITED STATES EXPORT CONTROLS

I. INTRODUCTION

This pamphlet sets forth in summary form the nature and scope of United States export controls. The pamphlet has been especially prepared to assist officials of friendly foreign countries to achieve an understanding of the basic elements of the United States system for controlling exports. It should be regarded as an outline of general information which can serve as a foundation for more intensive study of the various aspects of United States export controls. Specifically, the pamphlet is intended as an introduction to United States export controls for officials of foreign technical delegations expecting to make a study of the United States export control system.

Since the United States export control program really comprises several different programs administered jointly, it has been necessary to break the program down into a number of major components for discussion in this pamphlet. The title headings in the table of contents indicate major subjects covered by the pamphlet. The presentation of material in the pamphlet is as follows:

- First: Basic legal and organic authorities.
- Second: Administrative organization for export controls administered by the Bureau of Foreign Commerce.
- Third: Regulations, methods and procedures in export controls administered by the Bureau of Foreign Commerce.

The order in which the various segments of the export control program are presented has no significance as to any order of importance of the various programs. Actually, all of these programs are considered as equal in importance, and in practice, every effort is made to fashion from all of these related programs a single instrument of United States national policy in the field of export controls.

II. LAWS RELATING TO UNITED STATES EXPORT CONTROLS

The basic United States law relating to export control is the "Export Control Act of 1949". Virtually all of the controls over usual commercial exportations are exercised under this law. If the Export Control Act of 1949 did not exist, there would be no specific authority to control exports of commodities except atomic energy equipment and materials, gold and narcotics, and arms, ammunition and implements of war. The Export Control Act of 1949 continued similar legislation which had been in force continually since July 2, 1940.

In administering the Export Control Act there are, of course, a great number of other Federal laws which must be taken into account. Two laws which are of specific interest are the Administrative Procedures Act and the Federal Reports Act. The Administrative Procedures Act requires that regulations issued under the Export Control Act (as well as all other regulatory laws) must be formally announced and promulgated for the entire public to see and may not be changed except through official public notice. The Federal Reports Act provides that all regulations requiring information or reports from private persons, firms, corporations, associations, including those required

from exporters in connection with export licenses, must be reviewed and approved by the Bureau of the Budget. In this connection the Bureau of the Budget, which is in the Executive Office of the President, is concerned to see that all requests for information from business are reasonable and that there is no duplication of information which business is required to furnish various departments of the Federal Government.

III. BASIC PROGRAMS IN UNITED STATES EXPORT CONTROLS

The basic programs administered in connection with the United States export controls stem from the language of the Export Control Act itself. It is of interest here to quote the language of Section 2 of the Export Control Act of 1949:

"The Congress hereby declares that it is the policy of the United States to use export controls to the extent necessary (a) to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand; (b) to further the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security".

There have evolved from this expression of policy by Congress three principal programs which are carried forward in administration of United States export controls. These programs can be described briefly in the following terms:

1. To conserve the supply of materials which are scarce in the United States ("Short Supply Controls").
2. To restrict the exportation of strategic materials from the United States to Soviet Bloc nations, either directly or through a third country ("Security Controls").
3. To enlist the aid of friendly foreign governments in withholding strategic materials of whatever origin from Soviet Bloc nations ("Parallel Action").

A. Short-Supply Controls

In carrying forward the program of "Short-supply controls" the United States acknowledges that requirements of friendly foreign countries represent an important claim on U.S. materials which are in short supply. Therefore, in the determination of short-supply export quotas, such factors as the essentiality of foreign requirements, traditional dependence upon the U.S. for supplies, and U.S. foreign policy considerations are taken into account and weighed against the impact of a given level of exports upon the domestic economy.

The importance of fulfilling foreign requirements was well illustrated during the Korean mobilization period. At that time, when several hundred commodities - both finished products and raw

materials, including such basic materials as aluminum, copper, and steel - were extremely scarce. The U.S. was compelled to institute a system of domestic distribution controls to enable U.S. producers of defense, defense-supporting, and essential civilian end-use items to obtain adequate supplies of needed materials. The U.S. export program was closely tied in with this domestic allocation system. Export quotas, consonant with the over-all supply-demand situation, were established and such quantities were (reserved for export) within the domestic allocation framework. Thus friendly foreign countries were assured that the pre-determined quantities would in fact be available. Export orders were accorded priority ratings, within the quota reserved for export, on the same basis as domestic orders, and essential foreign requirements were thus given preference over less essential domestic U.S. uses.

After the conclusion of the Korean emergency, the domestic distribution controls were gradually discontinued as the individual commodity situations permitted. Short-supply export controls were abandoned almost as quickly for it was the general objective of the U.S. Government to retain export controls for reasons of short supply only where needed as a counterpart of domestic distribution controls or in unusual cases. The result of this action was that within a very short time after the end of domestic distribution controls only a handful of commodities remained subject to export quotas. The types of export quotas established are as follows:

Closed quotas: No regular exports are allowed. Such quotas are established for commodities in critically short-supply in the U.S. and for which essential needs of friendly foreign countries for U.S. supplies are judged not sufficiently important in terms of broad national interest to outweigh the critical supply situation. As a general rule, no exports are approved. However, upon justified by extraordinary or special considerations individual exceptions may be granted. Even at the height of the Korean war emergency, closed quotas were established for only about a half dozen special items.

Quantitative quotas: A quantitative quota is a specific quarterly quantity, publicly announced, which is distributed between special projects and normal exports. It is established for commodities (a) which are clearly in short supply in the U.S., (b) for which friendly foreign countries are dependent on the U.S. for essential supplies, and (c) for which adequate data on supply and requirements are available so as to permit a sound determination of the specific quantities which may be approved for export. A quantitative quota may in some instances be accompanied by supplemental limitations with respect to distribution, end-use, etc.

Restrictive quotas: Exports are authorized under a restrictive quota only where certain specific conditions relating to end-use, destination, concurrence of another agency, etc. are met. Restrictive quotas are used (a) when there is a serious shortage of essential supplies in the U.S., and (b) friendly foreign countries are dependent upon the U.S. for essential supplies, and (c) where the foreign demand may not be stable enough to warrant other types of quotas.

Open-end quota: No quantitative limitations on exports are imposed under the open-end quota procedure. Established for commodities (a) which are, or potentially are in short supply in the U.S., or (b) for which license control is considered necessary to guard against unusual exports, to prevent inequitable distribution, to avoid diversion to non-essential or speculative end uses, etc. Ordinarily exports are freely licensed under open-end quotas. Under this control, applications are usually approved as received, and their review is primarily for security reasons, while at the same time providing an opportunity to assess the nature and probable magnitude of future foreign demand.

B. Security Controls

The United States program in security export controls has been in force continuously since March 1, 1948. The security trade controls are designed to help prevent aggression and war, and to help make certain that U.S.-origin goods do not contribute materially to the war potential of unfriendly countries. The initial action taken in 1948 had as its purpose the scrutiny of all exports to Eastern Europe of industrial supplies or equipment having any potential military value. Materials were classified in order of their strategic importance. It then became the policy of the U.S. to embargo the shipment to the Soviet Bloc of items of strategic importance. There is no objection, of course, to trade with the European Soviet Bloc in non-strategic items. There is, however, an embargo on the shipment of strategic and non-strategic goods of U.S. origin either directly or indirectly to Communist China.

In addition, the United States since 1949 has increasingly consulted with a number of friendly countries for the purpose of obtaining their cooperation in restricting the growth of the Soviet war potential through similar export controls. In approaching these governments, it was recognized that each had to face this problem in the light of its own trade and political relations with the Soviet Bloc as well as its interest in the common security. Agreement was subsequently reached on international control over the flow of strategic goods to the Soviet Bloc. However, the United States Government has always taken the position, along with other member governments, that internationally agreed controls on trade with the Soviet Bloc are to be regarded as a minimum level of control and that individual countries might wish to exercise a higher degree of control in the case of certain commodities. It continues to

be the United States Government policy to exercise controls on certain commodities which have not been agreed for embargo control internationally and in appropriate cases the United States may wish to request assurances from other friendly countries that such items not be exported by such countries to the Soviet Bloc. In general, such requests for assurances would be limited to items for which the United States constitutes an important source of supply of the item for the friendly country in question. Assurances against shipment of such items to the Soviet Bloc are the only means by which the United States may satisfy itself that United States-origin goods of a strategic character are not in fact making possible shipment of significant quantities of like items to the Soviet Bloc by friendly countries. The responsibility of obtaining "parallel action" from foreign governments rests with the Director of the Foreign Operations Administration and the Department of State. However, under the export control authority, it is necessary that this and other programs operate in a consistent coordinated effort to carry forward the principles of national security.

IV. THE ADMINISTRATIVE ORGANIZATION FOR EXERCISE OF EXPORT CONTROLS

A. Agencies Concerned with United States Export Control

As indicated above, there are three principal programs carried out in administering the Export Control Act of 1949. Administrative responsibility for all matters related to United States export controls is lodged with the Bureau of Foreign Commerce in the Department of Commerce. However, international trade is a complex business and the export control programs are a matter of official concern to several departments and agencies of the United States federal government. While the Bureau of Foreign Commerce has administrative responsibility for all operational matters under the Export Control programs, other executive departments and independent agencies concerned with our foreign and domestic export control problems may, however, recommend changes in the policies under which the Bureau of Foreign Commerce operates.

B. Basic Authorities

The Export Control Act of 1949 authorizes the President of the United States to control United States exports. By Executive Order the President has delegated this authority to the Secretary of Commerce. In turn, the Secretary of Commerce has delegated to the Director of the Bureau of Foreign Commerce authority and responsibility for administrative operations related to export control subject to policy direction from the Advisory Committee on Export Policy.

C. The Advisory Committee on Export Policy

The Export Control Act of 1949 directs that the official responsible for administering export control "....shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports". The Secretary of Commerce has established an "Advisory Committee on Export Policy" as the formal channel for obtaining the "information and advice" which by law he is obligated to seek in administering export control.

The Advisory Committee on Export Policy is the central body in the United States Government for developing and recommending to the Secretary of Commerce the operating policies which govern the administration of export controls. The results of committee considerations are embodied in "Program Determinations", issued on behalf of the Secretary of Commerce, which are binding as directives to the Bureau of Foreign Commerce in the administration of export controls. The Advisory Committee on Export Policy comprises representatives from all government departments with a continuing interest in the international trade and foreign policy of the United States. The following agencies are regularly represented on this committee:

- Atomic Energy Commission
- Department of Agriculture
- Department of Defense
- Foreign Operations Administration
- Department of Interior
- Mutual Defense Assistance Control Administration
(Battle Act Administrator)
- Department of State
- Bureau of Foreign Commerce
- Office of Defense Mobilization
- Treasury Department
- Business and Defense Services Administration

In addition, any department may be represented on a special basis upon invitation, or on the department's own initiative, for any subject in which such department may have a special interest.

The Advisory Committee on Export Policy is comprised of department representatives at the sub-cabinet level. This committee, which is concerned with major changes or new departures in basic operating policies, normally meets about once a month. The continuing work of the Advisory Committee is carried forward in the field of short supply by its Operating Committee. The Bureau of Foreign Commerce is responsible for recommending to the Operating Committee such short supply controls as appear necessary. Subject to final appeal to the President, the Secretary of Commerce exercises ultimate responsibility for short supply determinations for exports under the Export Control Act.

The review and establishment of policies relating to security controls, however, are the interrelated responsibility of both the Secretary of Commerce, due to his export control responsibilities pursuant to the Export Control Act, and the Director of the Foreign Operations Administration, pursuant to his responsibilities under the Mutual Defense Assistance Control Act of 1951 (the so-called Battle Act). The review of the United States strategic commodity lists, as well as other security problems, are, therefore, carried out jointly through the Joint Operating Committee which makes recommendations to the Secretary of Commerce and Director of FOA with respect to United States controls and controls which might be advocated by the United States in international discussions.

D. Bureau of Foreign Commerce

The Bureau of Foreign Commerce is that part of the Department of Commerce, which is responsible for administrative matters connected with export control such as publication of regulations, review of license applications and issuance of validated licenses. It is also responsible for technical direction to the Customs Service of the Treasury Department export controls whose function in connection with export controls is to make certain that shipments of goods from the United States are made under proper licenses and from physical inspections, that the goods shipped are those authorized by the licenses.

There are three main parts of the Bureau of Foreign Commerce concerned with export controls (a) Economic Affairs; (b) Intelligence and Service; (c) Export Supply.

The Export Control function, centered in eight divisions under the Director of the Office of Export Supply, comprise (a) four divisions concerned with licensing of commodities for export; (b) one division concerned with the licensing of projects and technical data; (c) an Investigations Staff dealing with matters relating to violations or suspected violations of Export Control Regulations; (d) a Strategic Controls Division concerned exclusively with problems of security controls, and efforts to secure parallel actions on the part of foreign governments, and (e) an Operations Division performing a number of service functions including developments of regulations, information and service to exporters, a program of review of action on license applications and clerical work incident to handling license applications.

The Commercial Intelligence Division of the Office of Intelligence and Services maintains a complete file of commercial information regarding foreign firms, and the various Economic Affairs Divisions are concerned with economic developments in specific foreign countries or areas.

The legal staff of the Bureau of Foreign Commerce is concerned with (a) the legal sufficiency of export regulations, procedures and interpretations; and (b) the prosecution of administrative cases against alleged violators for denial of export privileges and liaison with the Justice Department in connection with criminal prosecution.

E. United States Customs Service - Treasury Department

The United States Customs Service in its surveillance over exports is responsible for enforcing export control regulations for the Bureau of Foreign Commerce at the point of exportation. Personnel in the Bureau of Customs must see that each exportation is lawful under the export control regulations and that exportations made under a license issued by the Bureau of Foreign Commerce comply strictly with the authorization in the license itself. The responsibility and work of the Bureau of Customs covers examination and inspection of cargo, as well as inspection and clearance of documents relating to each exportation.

V. BASIC PROVISIONS OF UNITED STATES EXPORT CONTROL REGULATIONS

A. Published Regulations

United States export control regulations are published by the Bureau of Foreign Commerce and are set down in the "Comprehensive Export Schedule", which is a loose leaf volume containing all current regulations issued under the authority of the Export Control Act. This publication is kept current by "Current Export Bulletins" issued one or two times a month to incorporate changes. About one-fourth of the Comprehensive Export Schedule is devoted to a list of specific commodities (the Positive List) subject to export control regulations. The changes announced in Current Export Bulletins relate to changes in this list of commodities as well as procedural changes initiated from time to time.

B. Exceptions to Export Controls Administered by the Bureau of Foreign Commerce

United States export control regulations as set forth in the Comprehensive Export Schedule do not apply to the following types of shipments:

- a) Exportations for consumption in exportations from the U.S. through Canada to other countries are subject to both U.S. and Canadian export control regulations.
- b) Exportations for the direct use of United States armed forces abroad.
- c) Exportations subject to licensing by another United States agency such as: (1) arms, ammunition, and implements of war and technical data related thereto; helium; licensed by the Department of State; (2) commodities and data subject to the Atomic Energy Act licensed by the Atomic Energy Commission; (3) gold and narcotics licensed by the Treasury Department; (4) vessels, other than vessels of war licensed by the U.S. Maritime Commission, which is also a part of the Department of Commerce.

d) Shipments to territories, possessions and dependencies of the United States.

e) Shipments moving in transit through the United States without unloading. (A number of limitations and special conditions must be met on such shipments).

C. General Prohibition Against Exportations

The United States export control regulations provide, except under the foregoing conditions, that exportation "from the United States of all commodities and all technical data is hereby prohibited" unless the Bureau of Foreign Commerce has authorized the exportation by either issuing a "validated license" or establishing a "general license" permitting such exportations.

A validated license is a formal license document issued to the exporter by the Bureau of Foreign Commerce and is based upon a signed application submitted by the exporter. A "general license" is an authority granted by the Bureau of Foreign Commerce which permits exportation of some commodities under specified conditions without a validated license from the Bureau of Foreign Commerce. There is no license document issued in connection with any "general license". The authority to export in such an instance is contained in the published regulations of the Bureau of Foreign Commerce which specify the conditions under which each general license may be used.

The remaining paragraphs in this section relate to the various types of "general licenses" established by the Bureau of Foreign Commerce. As a precedent to an understanding of general licenses, it is necessary to explain the terms "country groups" and "positive list of commodities" as they are used in the United States export control regulations.

D. Country Groups

There are two main groups of countries defined in United States export control regulations identified as Group "R" and Group "O". (Within Group "R" there is a group of countries identified as Sub-Group "A" countries). The letter symbols themselves have no significance and are simply random letters used as brief codes to identify the group of countries in each category. The country groups can be described as follows:

Group "O" All countries in the Western Hemisphere
(except the United States and Canada).

Group "R" All countries in Europe, Asia, Australia,
and Africa, and islands in the Eastern
Hemisphere, including those listed under
Sub-Group "A".

Sub-Group "A" All countries in the Soviet Bloc of nations including Communist China, North Korea and the Communist controlled areas of Indo-China (Hong Kong and Macao are not defined as within Sub-Group A. However, because of the traditional role of these areas as entrepot ports for trade moving into China, limitations are placed on many general licenses to these areas.)

E. Positive List of Commodities

The Positive List of commodities is a current list published in the Comprehensive Export Schedule showing the commodities which may require a validated license from the Bureau of Foreign Commerce. The Positive List closely follows commodity descriptions used in "Schedule B" Statistical Classification of Domestic and Foreign commodities exported from the United States" which is the commodity classification system used in gathering export statistics in the United States. The system of classification set up in Schedule B has been used for many years in classifying United States exports and although not originally designed as a classification system for use in connection with export control has been adopted to that use. In the administration of United States export controls, the commodity classifications used have always been directly related to Schedule B classifications, since this is the commodity classification system with which the exporter must be familiar at all times regardless of whether export controls are in force. (There is attached as Appendix A, a sample page from the Positive List of commodities).

The entries on the Positive List of commodities are set forth under the following headings:

1. Department of Commerce Schedule B Number

This is the code number assigned to a commodity in "Schedule B Statistical Classification of Domestic and Foreign Commodities Exported from the United States".

2. Commodity

This is a description of each commodity subject to United States export controls. The term used in these descriptions follow, to the maximum extent possible, commodity descriptions in "Schedule B Statistical Classification of Domestic and Foreign Commodities Exported from the United States".

3. Unit

This is the unit of measure designated for the particular commodity, such as pound, ton, square yard, etc., so that total quantities can be uniformly measured.

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4. Processing Code and Related Commodity Group Number

This column shows the "Processing Code" assigned to each commodity. In some instances this code bears a numerical suffix. This processing code is a device which permits ready identification of commodities on license applications for routing within BFC. For example, items coded "TEXT" can readily be identified and immediately routed to the Bureau of Foreign Commerce licensing division concerned with controls of textiles. The related commodity group number suffix in this column is a device permitting exporters to list related commodities on a single license application, a practice not otherwise permitted.

5. GLV Dollar Limit

This entry sets for each commodity a dollar limit level below which exportations may be made under a general license.

6. Validated License Required

In this column a symbol is used to indicate whether a license is required only for "R" countries or for "R" and "O" countries, as indicated in Section D above. (A validated license is required for all commercial shipments to Hong Kong, Macao and Sub-Group A countries unless exportable under a particular applicable general license).

7. Commodity Lists

This column is used to signal for each commodity certain special requirements of the export control regulations as, for example, whether an Import Certificate is required in connection with a license application for a certain commodity.

F. General License

There are a number of different kinds of "general licenses" established under the export control regulations in the Comprehensive Export Schedule. The following paragraphs in this section contain brief explanations of some of the general licenses most frequently used in export trade.

1. General License GRO

This general license permits exportations to any country in the world, except Hong Kong, Macao and Sub-Group A, of any commodity which is not listed on the Positive List.

2. General License GO

This general license permits shipment to any Western Hemisphere country of any commodity shown on the Positive List where the "validated license required". (Next page is page 12)

column on the Positive List indicates that a license is required only to "R" destinations.

3. General License GII

This general license permits exportation of most commodities moving through the United States to any third country, except Hong Kong, Macao or a Sub-Group A country. (There are a number of specific commodities to which this general license is not applicable. In addition, there are several detailed limitations on its use).

4. General License GLV

This general license permits shipment of commodities to any destination, except Hong Kong, Macao or a Sub-Group A country, of small value shipments of commodities in the Positive List. The Positive List indicates the limited value for each commodity. Some commodities have a "Zero" limit which means that general license GLV cannot be used for any such commodity. Other GLV limits are set variably from \$5.00 to \$2,500, depending on the nature of the commodity. (There are a number of limitations on the use of this general license which are devised to prohibit its abuse).

5. General License GFK

This general license authorizes the export to Hong Kong of a specified group of commodities. Unless specifically listed in the Comprehensive Export Schedule, or authorized under the general license, all commodities whether on the Positive List or not require a validated license for export to Hong Kong.

6. Other General Licenses

General Licenses GO, GRO, and, to some extent, GLV are used widely in commercial exportations. In addition, there have been set up a number of special purpose general licenses for exportations; personal baggage; gift shipments to Sub-Group A destinations; certain publications; tools of trade; stores, supplies, equipment and crews effects for ships and planes; trade samples to Hong Kong; shipments to United States representatives abroad; commodities for exhibit at trade fairs.

NOTE: These general licenses are not unlimited. The Collector of Customs is authorized to restrict most of these licenses to "usual and reasonable kinds of quantities" of materials moving under these general licenses.

G. Validated Licenses

There are two major types of validated licenses issued by the Bureau of Foreign Commerce, namely "individual" and "projects" licenses. Individual licenses relate to exportations moving through the normal channels of international trade from an exporter in the United States to a consignee abroad. Project licenses are issued to cover all requirements in connection with a specific project abroad. The handling of applications and issuance of individual and project type licenses are discussed separately below.

H. Validated License - Individual Type

Samples of the various forms used to apply for an export license are attached.

1. Essential Stages

There are five steps through which all license applications move. These steps, with a brief explanation of the type of work done at each step, are described below.

2. License Registration

The license application (IT-419) is examined to see that it has been properly filed in duplicate and is accompanied by an acknowledgement card (IT-116). It is further examined to determine whether any party named in the application has been suspended from participation in exports as a result of having been administratively suspended for or convicted of, a violation of U.S. Export Control Regulations, and to see whether the consignee is subject to special scrutiny (detailed information is available from the Commercial Intelligence Division which maintains current information on both foreign and domestic firms). All papers in connection with each application are given a case number. One copy of the acknowledgement card is returned to the applicant which advises him of the case number assigned to the application. The duplicate copy is filed in EFC. The application is forwarded to the appropriate licensing division.

3. Licensing Officer

Every licensing action taken by the Bureau of Foreign Commerce is authorized by a licensing officer in one of the licensing divisions of the Bureau of Foreign Commerce. Licensing divisions are organized to handle large commodity groups and each licensing officer is assigned specific commodities. For example, all applications for ball bearings would be handled by a single licensing officer in the Producers' Equipment Division. The licensing officer may take any one of three actions with respect to the application. He may approve it, reject it, or return it to the applicant without action. Applications may be returned to the applicant without action to obtain further information or for such reasons as incompleteness of the application, failure to submit required documents, to advise the applicant that the shipment may move

under a general license where no validated license is required, etc. In taking action on any application the licensing officer is responsible for (1) all technical commodity considerations in connection with the transaction covered by the application; (2) seeing that all applicable regulations are complied with; (3) obtaining information from the Commercial Intelligence Division regarding parties named in the application either in the United States or abroad; and (4) obtaining advice from other government departments, such as the Department of Defense, Department of State, etc., where required.

Actions taken by the licensing officer must conform with regulations set forth in the Comprehensive Export Schedule, administrative instructions contained in the Export Control Manual (the Export Control Manual is a body of instructions for use of employees of the Bureau of Foreign Commerce) and policies and determinations laid down by the Secretary of Commerce through his Advisory Committee on Export Policy.

4. Review of Licensing Actions

There is established in the Operations Division of the Bureau of Foreign Commerce a Review and Analysis Section. Officers in this section are responsible for reviewing licensing actions to be sure that laws, regulations, policies and instructions are being uniformly applied by the licensing officer. Practically all licensing actions are subject to this review which takes place before the licensing action is officially released by the Bureau of Foreign Commerce.

5. Issuance

After applications have been acted upon by the licensing officer (and reviewed) they are cleared through a clerical unit and the licensing action is formally issued to the exporter. If the application has been approved, an export license is typed on special forgery-proof paper. Typewriters used for this purpose are made up with specially designed type and the license document, when issued, bears an official stamp of the Department of Commerce to insure against fraudulent licenses. From this point, the export license is mailed to the applicant and the applications and related documents, with the record of official action taken, are deposited in the official files of the Bureau of Foreign Commerce.

6. Files

After official action has been taken in connection with an application, all papers are deposited in these official files and may be removed only by authorized employees. Whenever material is removed from the official files for reference, a facsimile of the material is made on microfilm equipment. Thus, if an application is lost, destroyed or altered, an official copy can be produced from the microfilm. Records maintained in this section include files of:

- (a) License applications and related documents showing the official record of all actions taken by the Bureau of Foreign Commerce.
- (b) Acknowledgement cards, which provide a reference to all applications filed and licenses issued for any named United States exporter.
- (c) Licenses, including both a carbon copy of the license when issued and the original license, after use, bearing the endorsement by the Collector of Customs or shipments made under the license.

These files are maintained for a minimum of five years.

I. Validated Licenses - Project Type

Validated licenses of the project type represent a special type of license. Whereas the individual type of validated license is issued to permit the exportation of a specific shipment of commodities under an export order, a project type license authorizes the exportation of all commodities necessary to the completion of a project abroad. Examples of the types of enterprise which might qualify for a project type license are:

- (a) Maintenance and operation of a copper mine in Chile.
- (b) Erection of a penicillin plant in India.
- (c) Petroleum exploration and development operations in Venezuela.
- (d) Modernization of Mexican National Railways

The processes for issuance of a project type validated license are quite different than those for an individual type license. The principal steps in connection with a project license are:

- (a) An application is filed. This application includes:
 - 1) A summary description of the proposed venture.
 - 2) An appraisal of the project's essential values, including the economic advantages to the United States or to other nations of the free world.
 - 3) Estimates of total requirements for commodities from the United States, and estimates of commodities to be procured elsewhere than in the United States.
 - 4) Detailed estimates of commodities required from the United States during the first year following approval of a project license application.

- (b) The project license is reviewed by the Project and Technical Data Division, and after appropriate review in the commodity divisions is approved by the Project and Technical Data Division.
- (c) The licensee may export commodities in accordance with applications filed with and approved by the Bureau of Foreign Commerce. Applications under a project type license represent firm current requirements for commodities to support the approved project and are cleared through the Bureau of Foreign Commerce under administrative procedures a great deal simpler and faster than those which govern applications for commercial-type validated licenses. (The procedures for export clearances under project type licenses are likewise much simpler than those required under commercial type licenses. See Section VI (5), below).

J. Exportation of Technical Data

Export regulations covering the exportation of technical data are designed to prevent the acquisition by the Soviet Bloc of U.S. origin technical data or products manufactured from such data, when such data, or products would contribute to the Soviet war potential. There are three distinct types of control over technical data. The following is a brief general outline of this regulation:

1. Exportations under General License

- A. General License GTDP - Authorizes the exportation to all destinations, of unclassified data in published form if such data are available without restriction to all persons by subscription or without cost.
- B. General License GTDU - Authorizes the export of unclassified technical data not generally available in published form to any destination except those in Sub-Group A provided such data does not relate to those commodities listed in Supplement 1, Part 385 of the Comprehensive Export Schedule. This supplement lists 53 Schedule B commodities under which a validated license is required for the export of technical data to any destination.
- C. General License GTDS - Authorizes the dissemination of scientific information not directly and significantly related to design, production and utilization in industrial processes.

2. Validated License

The following types of technical data require a validated license:

- 1. Technical data assigned a security classification.

There are two types of validated licenses for the export of technical data:

1. Specific Technical Data (STD). This, as the name implies, authorizes the export of specific technical data to a designated foreign consignee(s) within a validity period of 6 months;
2. Project Technical Data (PTD). This authorizes the export of designated types or classes of technical data required for a particular project or program.
3. Voluntary Clearances

Because of the changing nature of technical data in advanced developments in technology, requests for official opinion from the Bureau of Foreign Commerce by exporters are solicited prior to the export under General License of shipments which might effect the common security and defense of the U.S.

VI. CLEARANCE OF EXPORTATIONS BY THE COLLECTOR OF CUSTOMS

Before an export is made from the United States, the exporter must present a "Shipper's Export Declaration" form to the Collector of Customs at the port from which he intends to export. This document is used by the Bureau of the Census in gathering export statistics. It is also declared to be an official document for export control purposes. This means that any falsification of information on the Shipper's Export Declaration is subject not only to the penalties of the Bureau of the Census, but also to the penalties of the Export Control Act. (Under the Export Control Act, an offender may be placed in jail for one year and fined \$10,000 for each offense). The following steps are taken by the examiner in the office of the Collector of Customs with respect to each proposed exportation:

1. The Shipper's Export Declaration is checked to assure that it is signed by the exporter named therein or his formally authorized agent.
2. The Shipper's Export Declaration is examined to be sure that it is complete and accurate in all respects. All names shown on the Shipper's Export Declaration are checked against a list of firms which have been denied licensing privileges. This list is published in the Comprehensive Export Schedule. If the export privileges of any party have been suspended, the exportation is prohibited.
3. If the shipment is made under a general license, this fact must be recorded on the Export Declaration by the exporter with a notation as to which type of general license is claimed (for example, general license GRO, GO GLV, etc.).
4. On exportations moving under a general license, the Shipper's Export Declaration is examined in the light of all applicable regulations of the Bureau of Foreign Commerce to assure that the proposed exportation is properly covered by the general license.

5. On shipments under a validated license - individual type, the license document must be turned over to the Collector of Customs before an Export Declaration may be filed under such license. Any Shipper's Export Declaration presented for clearance under a validated license must bear the license number. The examiner in the Collector of Customs Office must examine each such declaration against the appropriate license which is in the Collector's hands to be sure that the proposed exportation is properly within the terms of the applicable license as to commodity, quantity, destination, consignee, etc. An appropriate entry is made on the license document to show quantities shipped under each Export Declaration cleared by the examiner in the Collector of Customs office.
6. On a validated license of the project type, the Bureau of Foreign Commerce officially notifies every Collector of Customs of project licenses which have been issued. Export Declarations covering proposed exportations under the project type validated license must bear a reference to the license number of the approved case. Such declarations are checked by the examiner in the Office of the Collector of Customs against the official list of project type validated licenses.
7. If the Export Declaration is in order and all applicable requirements have been met, it is "authenticated" by the examiner in the Office of the Collector of Customs. This authentication is in the form of a special official stamp bearing a serial number. One copy of the authenticated declaration is returned to the exporter to permit him to deliver it to the export carrier in exchange for the bill of lading. Two copies are retained by the Collector of Customs.
8. One copy of the Export Declaration is sent from the customs document examiner in the Customs House to the Customs inspector at the dock where loading aboard a vessel will be accomplished. In inspecting cargo, contents of packages are compared with information set forth in the Export Declaration. Discrepancies found may be cause for investigation or action to punish an offender.
9. After exportation, a copy of the ship's manifest is compared in detail with Export Declarations covering the ship's cargo. This helps to assure that all documents in connection with the transaction are in agreement. Discrepancies noted may call for a special investigation to determine whether export control regulations have been violated.

VII. SPECIAL AIDS TO THE LICENSING OFFICER

One of the most important single functions in the United States export control system is the position of the licensing officer. He is the commodity expert, qualified by many years of experience in the commodity field in which he must operate. While it is not possible in this pamphlet to describe the licensing officer's work in complete detail, it may be well to point out the kinds of decisions which the licensing officer must make and to list some of the types of information and devices available to him in making his judgments.

Commodities for the purpose of licensing may be broken down into security control items, short supply items, or both.

In licensing commodities controlled for security reasons, the licensing officer must examine the answers to such questions as the following:

- a) Are effective controls maintained by the country of ultimate destination in the same commodity?
- b) What are the licensing policies laid down for this commodity in program determinations from the Advisory Committee on Export Policy?

Since the number of items subject to short supply controls has decreased markedly, the problem of short supply items for export is no longer a major consideration in licensing goods for export. There are, however, a few items which remain in short supply and in taking action on applications to export these items, the licensing officer must take the following matters into account:

- a) What is the total quota for this commodity, i.e., what is the maximum amount which may be licensed for export in a specific period?
- b) How is the total quota broken down among the several foreign countries which require this commodity?
- c) What United States exporters have traditionally supplied this commodity to specific markets?
- d) For what end uses may exportation be authorized?
- e) What are the requirements for the commodity in each foreign country to which exportation will be authorized?
- f) If a license is granted, will the exporter be able to obtain the commodity in the United States market?

In some cases a commodity may be subject to export control for both short supply and security reasons which means that applications for any such commodity must be subjected to a double course of inquiry. In every license application there is, of course, the requirement that the application itself and all related documents must be in good order before final action is taken.

In arriving at his decision with respect to any license application, the licensing officer has at his command the application submitted by the exporter, supplemented in specific cases by documents and information which he may require. The following are examples of the types of documents and information which are either required by regulations or may be requested by the licensing officer:

- (a) An ultimate consignee statement, i.e., a statement signed by the consignee abroad in which he makes representations to the United States exporter and the Bureau of Foreign Commerce regarding the use and distribution of commodities proposed for exportation from the United States.
- (b) An import certificate supplied under the IC/DV system.
- (c) Information obtained through the United States Foreign Service in response to a cabled request from the Bureau of Foreign Commerce for an "export transaction check".
- (d) A Swiss Blue Import Certificate in the case of exportations proposed to Switzerland.
- (e) A summary of trade information regarding the United States exporter or foreign consignee developed from information in the files of the Commercial Intelligence Division in the Bureau of Foreign Commerce.
- (f) Detailed information regarding the transaction in answer to a request to the United States exporter.

NOTE: From time to time security problems arise, or cases are presented for processing, which require policy interpretation or review at a higher level than the licensing officer or the licensing division director. Such problems or cases are referred for study and recommendation to the "BFC Working Group", which is made up of representatives of the various parts of BFC.

VIII. INVESTIGATION AND ENFORCEMENT ACTIVITY

The United States Government feels that in order to assure compliance with its export control regulations, there must be a continuous effort to impose meaningful sanctions against United States exporters or foreign importers who wilfully violate such regulations.

There is in the Bureau of Foreign Commerce an Investigation Staff which is exclusively concerned with the examination of possible violations or incipient violations of United States export control regulations. The Investigation Staff comprises approximately 14 employees in the Washington office of the Bureau of Foreign Commerce and 10 employees in a New York office of the Investigation Staff. These employees are constantly gathering and sifting information obtained from such sources as: the United States exporter, the United States Foreign Service, United States Government Intelligence agencies, licensing officers in the Bureau of Foreign Commerce, Collectors of Customs, etc. Each bit of original information regarding a potential violation of export control regulations may be called a "lead". Each such lead is examined and any lead which appears to relate to a significant violation may develop into a full-fledged investigation that might require an investigator to travel to a number of points in the United States and, where necessary abroad.

As an aid to the Investigation Staff, a committee has been established which services two principle functions: (1) to advise the Investigation Staff as to the real importance of various irregularities under investigation so that the manpower of the Staff can be devoted to investigations which appear to be most promising. In this capacity the Committee acts as a jury which develops EFC opinion on the flavor of various cases; (2) the Committee advises the Director and Deputy Director of the Office of Export Supply in their capacity as supervisors of the Investigation Staff their developing ideas as to fruitful areas of activity for the Staff; as to methods of investigation of various cases; as to the appropriateness of proposed consent orders; as to the desirability of prosecution of minor offenders, etc.

In order to determine what person or firm is responsible for the violation it is often necessary to trace the actual movement of the goods from the United States by means of export licenses, export declarations, bills of lading, ships' manifests, landing certificates, customs entries abroad, foreign bills of lading, letters of credit, and so on. Information is also secured from exporters, freight forwarders, ocean and air carriers, foreign customs officers, customs brokers, banks, and from suspected individuals themselves.

When the investigators complete their inquiries, their reports are turned over to the Office of the General Counsel of the Department of Commerce, for legal review.

If the Department attorney determines that there is reasonable grounds to believe that a person has violated United States export control regulations in an important respect, a formal compliance action is instituted against the alleged violator. This compliance action moves through the following steps: (a) a charging letter is sent to the alleged violator describing the apparent violation and requesting that he answer the charges; (b) unless the offender admits the charges, a formal hearing of the charge is arranged before a "compliance commissioner" who is an official of the Bureau of Foreign Commerce; (c) in the proceedings before the compliance commissioner the prosecution is handled by the General Counsel's office. The accused may be and usually is represented by a lawyer of his own choice. The proceedings include a hearing of evidence of the alleged violation and the evidence of the alleged offender submitted in defense or refutation; (d) the Compliance Commissioner, in light of information presented at the formal hearing, makes a finding of whether there has been a violation of the regulations. If the Compliance Commissioner makes a finding of no violation no further action is taken by the Bureau of Foreign Commerce and no sanctions are imposed; (e) if the Compliance Commissioner makes a finding of violation he also recommends to the Director of the OES the compliance action he deems suitable. The Director then acts on this recommendation and may suspend the violator from the privilege of participating in United States exports for a specified length of time. Depending upon the gravity of the offense, the duration of this suspension may run from a few days upward to a maximum of "the duration of United States export controls".

(f) It should be noted that the administrative proceedings described above have been applied not only to United States exporters and forwarders, but also to deny to foreign companies and individuals, including importers and freight forwarders, the right to deal in exports from the United States.

In addition to the administrative sanctions imposed in the compliance proceedings described above, criminal penalties may be imposed for aggravated violations of United States export controls. In any such instance the entire case, with all related evidence, is referred to the United States Department of Justice for criminal prosecution of the offender. Fines and prison sentences have been imposed by United States Courts for such criminal violations.

In an effort to keep exporters constantly aware of compliance actions, a list of all current suspension orders is maintained and distributed by the Comprehensive Export Schedule. Press releases are issued and announcements are published, in the Federal Register.

Other actions which may be taken, short of formal compliance action, include detention and seizure of shipments, recall of shipments, and warning issuance of letters.

IX. DESTINATION CONTROL

Most of the discussion in this pamphlet has been restricted to regulations and procedures as they relate to the authorization to export goods from the United States. All of the effort expended to control exports to the point of departure from the United States would be lost unless steps were also taken to control the movement of the United States origin commodities after they have left the United States shores. For this reason, United States export control regulations are made applicable to United States origin commodities even after shipment has taken place.

These United States export control regulations are generally referred to as the "destination control" regulations and comprise three principal provisions. They are:

- (a) Reexportation from the country of ultimate destination shown on United States export control documents (export license or Shipper's Export Declaration) is prohibited unless the shipment could move forward directly from the U.S. under a general license.
- (b) All ships, planes or other carriers are prohibited from making delivery of United States origin goods to any destination other than the destination specified on United States export control documents.

- (c) For all commodities requiring a validated license and all Positive List commodities shipped under general license to any destination except Latin America, the bills of lading and commercial invoices must bear one of the following statements:

"These commodities licensed by the United States for ultimate destination (name of country). Diversion contrary to United States law prohibited".

or

"These commodities licensed by United States for ultimate destination (name of country) and for distribution or resale in (name of other approved countries as shown on validated license). Diversion contrary to United States law prohibited".

By this requirement all interested parties, including foreign importers, customs brokers, freight forwarders, banks, etc., are put on notice as to the conditions under which the exportation has been licensed by the United States.

These destination control provisions of the export control regulations are considered vitally necessary to the effectiveness of United States export controls. Violations of any of these regulations are regarded just as seriously as obtaining an export license under false representations or illegal description of merchandise proposed for exportation. Compliance orders have been entered against persons who divert, transship or reexport goods contrary to these specific provisions of the United States export control regulations and the notices on the bills of lading and invoices.

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APPENDIX

WORKLOAD AND STAFF

1. In order that the reader may have some appreciation of the volume of work and approximate staff required in connection with export control, there have been set forth below some salient statistics. These statistics standing alone cannot be taken as a precise measure of work but provide some basis for comparing the task of administering United States export control with similar work done in other countries. The Department of Commerce employs a staff of approximately 361 in connection with export control work. The staff is distributed as follows:

Advisory Committee on Export Policy	14
Bureau of Foreign Commerce	324
Export Supply	249
Other organizational units in the Bureau of Foreign Commerce	75
Department of Commerce field offices	23
2. During the seven months ending March 1955 the number of license applications for individual type validated licenses received in the Bureau of Foreign Commerce averaged approximately 4,100 per week.
3. Of all applications received in the Bureau of Foreign Commerce, 95% are disposed of within two weeks. The balance of cases take a longer time for clearance, rising in rare instances to several months on especially difficult cases involving inquiries abroad.
4. There were 411 project type validated licenses currently in force at the end of February 1955.
5. Collectors of Customs clear an average of 76,000 Shipper's Export Declarations per week. There are 46 Collectors of Customs which cover exportations from as many "ports", plus about 200 "subports". The Collectors of Customs staff includes 214 people engaged exclusively in export control work.
6. As of December 16, 1954 there were 132 suspension orders outstanding against violators of export control regulations.
7. As of February 28, 1955 the Positive List comprised a list of approximately 812 commodity entries subject to validated license requirements.